IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE

WRIT PETITION NO.1944 OF 2003

Shri Devidas Sadashiv Savale
aged adult, P.B. No.9684,
H.A.L. Aircraft Division, Nasik ... Petitioner

V/s.

1. State of Maharashtra
through its Secretary,
Tribal Development Department
Mantralaya, Mumbai - 400 032

2. Committee for Scrutiny and
Verification of Tribe Claims
Nasik Division, Nasik through
its Deputy Director (R) and
Member-Secretary, having its
office at Adivasi Vikas Bhavan
Old Agra Road, Nasik

3. Hindustan Aeronautics Ltd.
through its Deputy General Manager
(Planning and Tooling) and
Disciplinary Authority,
Aircraft Division, Nasik

4. Executive Magistrate
Niphad Dist., Nasik ... Respondents

Mr.R.K. Mendadkar for Petitioner
Mr.C.R. Sonawane, AGP, for Respondent Nos.1, 2 and 4
Mr.A.M. Vernekar for Respondent No.3

CORAM: **V.G. PALSHIKAR &**
SMT.NISHITA MHATRE, JJ.

DATED: **JANUARY 27, 2005**

ORAL JUDGMENT (PER SMT.NISHITA MHATRE, J.):

. The Petitioner questions the invalidation of his caste certificate by the Caste Scrutiny Committee. The facts in this case are not disputed. The Petitioner is in employment with Respondent No.3 Hindustan Aeronautics

Limited since 1978. The Petitioner claims that he belongs to the Mahadeo Koli tribe which is recognised as a Scheduled Tribe under the Presidential notifications issued under Article 342 (1) of the Constitution of India. He was issued a caste certificate by the Executive Magistrate, Niphad, who was then the Competent Authority to issue such a certificate. It appears that the caste certificate was then sent for verification by the employer to the Committee for Scrutiny and Verification of Tribe claims. This was done in 1994. The Petitioner appeared before the Committee without prejudice to his contention that the Committee was acting without jurisdiction. The caste certificate of the Petitioner was invalidated by the Committee on coming to the conclusion that the Petitioner did not belong to the Mahadeo Koli Tribe on 19.10.1995. Consequent upon the caste certificate being invalidated, the employer issued a chargesheet to the Petitioner alleging misconduct on the part of the Petitioner for having obtained employment on the basis of a false caste certificate. A domestic enquiry was held. The enquiry officer found the Petitioner guilty of the charges levelled against him. A second show-cause notice was issued to the Petitioner on 27.1.2003 directing the Petitioner to show cause against the proposed punishment of dismissal. The Petitioner thereupon filed the present petition. When the petition was admitted on

25.8.2003, interim relief was granted injuncting the Respondents from terminating the services of the Petitioner. Earlier, the petitioner furnished an undertaking on 22.8.2003 averring that he would not claim any benefit as a member of the Mahadeo Koli tribe while in employment with Hindustan Aeronautics Limited.

2. The principal contention raised in this Petition is that the caste certificate has been invalidated by a Committee which had no jurisdiction to do so. There is no dispute that it was only by a Government Resolution issued on 11.6.1998 that such certificates could be verified by the scrutiny committee. These Committees which were functioning earlier by the Government Resolution of 23.1.1995 were reconstituted and conferred a specific jurisdiction enabling them to verify the caste certificates of employees of Central Government undertakings. By this Government Resolution, the Committee has been given wider powers than the earlier committee. The contention of the Petitioner that the jurisdiction to scrutinise the claims of employees of Respondent No.3 was conferred upon the Committee only by Resolution of 11.6.1998 therefore, must be accepted. In our opinion, therefore, the invalidation of the Petitioner’s caste certificate by the Committee by its order dated 19.10.1995 cannot be sustained as the Committee had no jurisdiction to entertain the Reference

made by the employer.

3. In the case of *Bhaskar Sitaram Koli v/s. Executive Magistrate, Thane & Ors.,* **(W.P. 1414 of 1995**) the Division Bench of this Court (of which one of us Palshikar, J. was a Member), this Court has already held that the jurisdiction of the Committee to scrutinise the claims of the employees in respect of their caste was conferred upon it for the first time on 11.6.1998. The reference made in 1994 by the employer to the Caste Scrutiny Committee and the invalidation of the certificate by the Committee is therefore, set aside. The action taken by the management pursuant to the invalidation of the caste certificate also cannot be sustained and, therefore, must be quashed and set aside.

4. However, it would be open to the employer to refer the certificate obtained by the Petitioner in 1975 for verification by the Caste Scrutiny Committee which has been constituted pursuant to the Government Resolution dated 11.6.1998. Assuming the Caste Scrutiny Committee finds that the certificate issued to the Petitioner needs to be invalidated, the Petitioner who has been in service since 1978 will be continued in service and not be subjected to any disciplinary proceedings on this count.

5. Rule is, thus, made absolute accordingly with no order as to costs.